

SUBCHAPTER G—CONTRACT MANAGEMENT

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AUTHORITY: 42 U.S.C. 7101 et seq. and 50 U.S.C. 2401 et seq.

SOURCE: 49 FR 12026, Mar. 28, 1984, unless otherwise noted.

Subpart 942.2—Contract Administration Services

SOURCE: 65 FR 81007, Dec. 22, 2000, unless otherwise noted.

942.270-1 Contracting Officer's Representatives.

In accordance with internal agency procedures, a contracting officer may designate other qualified personnel to be the Contracting Officer's Representative (COR) for the purpose of performing certain technical functions in administering a contract. These functions include, but are not limited to, technical monitoring, inspection, approval of shop drawings, testing, and approval of samples. The COR acts solely as a technical representative of the contracting officer and is not authorized to perform any function that results in a change in the scope, price, terms or conditions of the contract. COR designations must be made in writing by the contracting officer, and shall identify the responsibilities and

limitations of the designation. A copy of the COR designation must be furnished to the contractor and the contract administration office.

942.270-2 Contract clause.

The clause at 952.242-70, Technical Direction, or a clause substantially the same, may be inserted in solicitations and contracts when a designated Contracting Officer's Representative will issue technical direction to the contractor under the contract.

[74 FR 36367, July 22, 2009]

Subpart 942.7—Indirect Cost Rates

942.704 Billing rates.

(b) When the contracting officer or auditor responsible for establishing billing rates, in accordance with 48 CFR 42.704, has not established such rates or such rates are not current for the performance periods (contractor FY) under contract, the DOE contracting officer responsible for administration of the contract shall establish an appropriate rate(s) for billing purposes. If the contractor holds more than one DOE contract covering that period of performance, the DOE office with the largest unliquidated obligations as of the beginning of that performance period shall take the lead in establishing the required billing rate for use on DOE contracts. Once appropriate billing rates are established by the responsible contracting officer designated by 48 CFR 42.704, such rates shall be adopted by the contracting officer and all billings and payments shall be retroactively revised to reflect the agreed upon rate(s).

[65 FR 81007, Dec. 22, 2000, as amended at 75 FR 29459, May 26, 2010]

942.705 Final indirect cost rates.

942.705-1 Contracting officer determination procedure.

(a)(3) The Department of Energy shall use the contracting officer determination procedure for all business units for which it shall be required to negotiate final indirect cost rates. A

list of such business units is maintained by the Office of Procurement and Assistance Policy, within the Headquarters procurement organization.

(b)(1) Pursuant to 48 CFR 52.216-7, Allowable Cost and Payment, contractors shall be requested to submit their final indirect cost rate proposals reflecting actual cost experience during the covered period to the cognizant contracting officer responsible for negotiating their final rates.

The DOE negotiating official shall request all needed audit service in accordance with internal procedures.

[61 FR 41710, Aug. 9, 1996, as amended at 74 FR 36368, July 22, 2009; 75 FR 29459, May 26, 2010]

942.705-3 Educational institutions.

(a)(2) The negotiated rates established for the institutions cited in OMB Circular No. A-88 are distributed to the Cognizant DOE Office (CDO) assigned lead office responsibility for all DOE indirect cost matters relating to a particular contractor by the Office of Procurement and Assistance Policy, within the Headquarters procurement organization.

[61 FR 41710, Aug. 9, 1996, as amended at 74 FR 36368, July 22, 2009]

942.705-4 State and local governments.

A list of cognizant agencies for State/local government organizations is periodically published in the FEDERAL REGISTER by the Office of Management and Budget (OMB). The responsible agencies are notified of such assignments. The current negotiated rates for State/local government activities is distributed to each CDO by the Office of Procurement and Assistance Policy, within the Headquarters procurement organization.

[61 FR 41710, Aug. 9, 1996, as amended at 74 FR 36368, July 22, 2009]

942.705-5 Nonprofit organizations other than educational and state and local governments.

OMB Circular A-122 establishes the rules for assigning cognizant agencies for the negotiation and approval of indirect cost rates. The Federal agency with the largest dollar value of awards

(contracts plus federal financial assistance dollars) will be designated as the cognizant agency. There is no published list of assigned agencies. The Office of Procurement and Assistance Policy, within the Headquarters procurement organization, distributes to each CDO the rates established by the cognizant agency.

[61 FR 41710, Aug. 9, 1996, as amended at 74 FR 36368, July 22, 2009]

Subpart 942.8—Disallowance of Costs

942.803 Disallowing costs after incurrence.

(a) *Contracting officer receipt of vouchers.* Vouchers and invoices submitted to DOE shall be submitted to the contracting officer or designee for review and approval for payment. If the examination of a voucher or invoice raises a question regarding the allowability of a cost submitted therein, the contracting officer, shall:

(1) Hold informal discussion with the contractor as appropriate.

(2) Issue a notice (letter, memo, etc.) to the contractor advising of cost disallowed or to be disallowed and advising the contractor that it may:

(i) Submit a written claim as to why the cost should be reimbursed—if in disagreement with the disallowance.

(ii) File a claim under the disputes clause, which will be processed in accordance with disputes procedures in the event disagreements cannot be settled.

(3) Process the voucher or invoice for payment and advise the finance office to deduct the disallowed cost when scheduling the voucher for payment.

(c) *Auditor reports and other sources of questioned costs.* (1) From time to time reports are received from professional auditors that may question the allowability of an incurred cost. Such reports are received as the result of auditors, in their independent role under OMB Circular A-73 or their own charters, scheduling and conducting financial or compliance audits of government contracts or as the result of an independent request for auditor service.

(2) When auditor reports or other notifications question cost or consider